

TABLE 18. ATTORNEY FEES IN WORKERS' COMPENSATION 1/

| State | Attorney fees established by statute, rule, operating policy, or on individual case basis | Determined by: | Statutory provision whereby attorney fees are added to award in certain cases | Statutory provision making unlawful acceptance of unapproved fees | Laypersons permitted to represent claimants | Attorney fees, upon approval, become liens against awards |
|--------------------|---|----------------|---|---|---|---|
| Alaska | 25% minimum on first \$1,000; 10% on balance, statute | Agency | Yes | Yes | Yes | No |
| Alabama | 15%, statute | Court | None | None | No | No |
| Arizona | 25%, statute | Agency | None | None | No | No |
| Arkansas | 30% first \$1,000; 20% next \$2,000; 10% on balance, statute | Agency | Yes | None | Yes | No |
| California | Individual case basis | Agency | Yes | None | Yes | Yes |
| Colorado | 20%, statute | Agency | None | None | No | Yes |
| Connecticut | Individual case basis | Agency | Yes | None | Yes | No |
| Delaware | 30% or \$2,250, whichever is less, statute | Agency & Court | Yes | None | No | No |
| Dist. of Col. | Individual case basis | Agency | Yes | Yes | Yes | Yes |
| Florida | 20% first \$5,000; 15% second \$5,000; 10% on balance, statute | Agency | Yes | Yes | No | Yes |
| Georgia | 25% to 33 1/3%, rule | Agency | Yes | Yes | No | No |
| Hawaii | Individual case basis | Agency | Yes | Yes | Yes | Yes |
| Idaho | Individual case basis | Agency | Yes | None | Yes | No |
| Illinois | 20%, statute | Agency | Yes | None | No | No |
| Indiana | Individual case basis | Agency | Yes | None | No | No |
| Iowa | Individual case basis | Agency | None | None | No | Yes |
| Kansas | 25%, statute | Agency | None | None | No | Yes |
| Kentucky <u>2/</u> | 20% first \$25,000; 10% next \$15,000; 5% balance up to a maximum of \$10,000, statute | Agency | Yes | No | No | No |

1/ This table refers only to attorney fees for claimants. Attorney fees for employers and insurance carriers are not regulated by State statutes or regulations.

2/ Kentucky: Maximum fee for plaintiff's attorney is 20% of award up to \$2,000 for first level of appeal.

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|---------------|--|----------------|---|---|---|---|
| Louisiana | 20% first \$20,000; 10% on balance, statute | Court | Yes | Yes | No | Yes <u>3</u> / |
| Maine | Individual case basis | Agency | Yes | Yes | No | No |
| Maryland | 20% first \$7,000; 15% next \$18,000; 10% balance, policy | Agency | Yes | None | No | Yes |
| Massachusetts | If employee prevails before hearing, twice SAWW; otherwise depends on when appellate process, settlement occurs, statute | Agency | Yes | None | No | Yes |
| Michigan | 30%, rule; up to time of trial, 15% first \$25,000; 10% balance on redemption settlements | Agency | None | None | No | No |
| Minnesota | 25% first \$4,000; 20% next \$60,000, statute | Agency | Yes | Yes | No | Yes |
| Mississippi | 25% before Commission; 33 1/3% in Court, statute | Agency | None | Yes | No | Yes |
| Missouri | 25%, policy | Agency | None | None | No | Yes |
| Montana | 25% - 40%, policy | Agency | Yes | None | Yes | Yes |
| Nebraska | 20% - 25%, policy | Court | Yes | Yes | No | Yes |
| Nevada | No provision | | Yes | | Yes | |
| New Hampshire | 20% - 25%, policy | Agency | Yes | None | No | No |
| New Jersey | 20%, statute | Agency | Yes | Yes | No | Yes |
| New Mexico | Maximum of \$12,500, statute | Agency | Yes | Yes | No | No |
| New York | Individual case basis | Agency | None | Yes | Yes | Yes |
| N. Carolina | Individual case basis | Agency | Yes | Yes | No | No |

3/ Louisiana: Attorney fees may not be included in any formula used to establish insurance premium rates.

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| North Dakota | An hourly rate (\$70-\$85) and maximum fees according to level of hearing, ranging from \$3,600 to \$7,200, may not exceed 20% of award, rule | Agency | Yes | None | No <u>4/</u> | No |
| Ohio | Individual case basis | Agency | None | None | No <u>5/</u> | No |
| Oklahoma | 10% TTD; 20% other types, statute | Court | None | None | No | Yes |
| Oregon | 25% not to exceed \$2,800 (PPD), rule | Agency | Yes | None | Yes | Yes |
| Pennsylvania | 20%, statute | Agency | Yes | None | No | Yes |
| Puerto Rico | Individual case basis | Agency | Yes | None | No | No |
| Rhode Island | Individual case basis | Agency | Yes | None | No | No |
| S. Carolina | Individual case basis | Agency | Yes | Yes | No | No |
| South Dakota | 25% for settlements; 30% for lower court cases; 35% for State Supreme Court cases, statute | Agency | Yes | None | Yes | No |
| Tennessee <u>6/</u> | 20%, statute | Agency & Court | None | Yes | No | Yes |
| Texas | 25%, statute | Agency | Yes | None | Yes | Yes |
| Utah | 20% first \$15,000; 15% next \$15,000; 10% balance; maximum \$9,051, rule | Agency | None | None | Yes | No |
| Vermont | 20% maximum \$3,000, policy | Agency | Yes | None | No | Yes |

4/ North Dakota: A non-legal advisor program provides assistance to injured workers, independent of the administrative claims processes; attorney fees may not be paid for claimants unless they have first used the adviser services. The program will be reevaluated in 1999.

5/ Ohio: However, laypersons are permitted to represent claimants at administrative hearings, if no fee is charged.

6/ Tennessee: Employer attorney fees in excess of \$10,000 require court approval. The threshold will be adjusted each July, beginning in 1997.

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|---------------|---|-------------------|---|--|---|---|
| Virginia | Individual case basis | Agency | Yes | None | No | No |
| Washington | 30%, statute | Agency | Yes | Yes | Yes | No |
| West Virginia | 20%, 208 week limit, statute <u>7</u> / | Agency | None | Yes | No | No |
| Wisconsin | 20% in disputed cases, statute | Agency | None | Yes | Yes | No |
| Wyoming | Individual case basis | Court | Yes | Yes | Yes | No |

7/ **West Virginia:** Attorney fees limited to 20% of claimant's or dependent's award.